



United States General Accounting Office
Washington, DC 20548

Office of the General Counsel

B-286337

October 5, 2000

The Honorable William V. Roth
Chairman
The Honorable Daniel Patrick Moynihan
Ranking Minority Member
Committee on Finance
United States Senate

The Honorable Bill Archer
Chairman
The Honorable Charles B. Rangel
Ranking Minority Member
Committee on Ways and Means
House of Representatives

Subject: Department of Health and Human Services, Administration for Children and Families: Bonus to Reward States for High Performance Under the TANF Program

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Health and Human Services, Administration for Children and Families (ACF), entitled "Bonus to Reward States for High Performance Under the TANF Program" (RIN: 0970-AB66). We received the rule on September 22, 2000. It was published in the Federal Register as a final rule on August 30, 2000. 65 Fed. Reg. 52814.

The final rule implements section 403(a)(4) of the Social Security Act which authorizes bonuses to high performing states in meeting the purposes of the Temporary Assistance for Needy Families Block Grant.

Enclosed is our assessment of the ACF's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that ACF, with the exception of the effective date issue discussed below, complied with the applicable requirements.

The final rule has an announced effective date of October 30, 2000. The Congressional Review Act requires major rules to have a 60-day delay in their effective date following publication in the Federal Register or receipt of the rule by

Congress, whichever is later. 5 U.S.C. 801(a)(3)(A). Congress did not receive the rule until September 22, 2000, which means the final rule will not have the required 60-day delay in the effective date.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Cindy Fagnoni, Managing Director for Education, Workforce, and Income Security. Ms. Fagnoni can be reached at (202) 512-7215.

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Ms. LaVarne Burton
Executive Secretary to the Department
Department of Health and Human Services

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
ADMINISTRATION FOR CHILDREN AND FAMILIES
ENTITLED
"BONUS TO REWARD STATES FOR
HIGH PERFORMANCE UNDER THE TANF PROGRAM"
(RIN: 0970-AB66)

(i) Cost-benefit analysis

Bonus funds of up to \$200 million each year were authorized for awards for Fiscal Years 2002 and 2003, the time period covered by the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Secretary for Health and Human Services has certified that the final rule will not have a significant impact on a substantial number of small entities because it only affects the states, the District of Columbia, and certain territories.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule will not impose an intergovernmental or private sector mandate, as defined in title II, of over \$100 million in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On December 6, 1999, a Notice of Proposed Rulemaking was published in the Federal Register. The ACF received 130 comments in response to the notice and considers them in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The preamble to the final rule summarizes the information forwarded to OMB for review and approval including the burden hours imposed. Until the collections are approved by OMB, neither individuals nor states need to respond to the request for data.

Statutory authorization for the rule

The final rule is promulgated under the authority contained in section 403(a)(4) of the Social Security Act, 42 U.S.C. 603(a)(4).

Executive Order No. 12866

The final rule was reviewed by OMB and found to comply with the requirements of the order.